

Meeting of 2000-6-13 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JUNE 13, 2000 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager John Vincent, City Attorney
 Brenda Smith, City Clerk
 Lt. Col. Jeff Ewing, Fort Sill Liaison

The meeting was called to order at 6:00 p.m. by Mayor Powell. Invocation was given by Rev. John Cramer, Aldersgate United Methodist Church, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
 James H. Hanna, Ward Two
 Glenn Devine, Ward Three
 John Purcell, Ward Four
 Robert Shanklin, Ward Five
 Barbara Moeller, Ward Six
 Stanley Haywood, Ward Seven
 Michael Baxter, Ward Eight

ABSENT: None

Mayor Powell welcomed the Leadership Lawton-Fort Sill Class to the meeting. He read a proclamation for Flag Day and "Pause for Pledge of Allegiance Day".

PRESENTATION OF CITIZEN OF THE MONTH AWARD TO LURETHIA REESE

Sheila Alford, Mayor's Commission on the Status of Women, introduced Lurethia Reese as Citizen of the Month for April. She commended Ms. Reese's volunteer efforts with the Lawton-Fort Sill Pan Hellenic Council; professional credit counselor, Galilee Baptist Church, New Directions Women's Shelter, Jefferson Funeral Home public relations, and for providing personal care and attention for nursing home residents. Mayor Powell presented awards from Congressman J.C. Watts, Oklahoma Senate and Oklahoma House of Representatives local delegations, and from the Mayor and City Council. Ms. Reese expressed appreciation for the recognition.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF MAY 23, AND SPECIAL MEETINGS OF MAY 22, MAY 26, MAY 30, AND JUNE 6, 2000.

MOVED by Haywood, SECOND by Smith, for approval of the minutes. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Claudine May, 34th and Liberty, complained of high weeds and grass at 819 NW 34th Street. She said the owner lives in Utah and uses the property as a tax write-off but never maintains it. The property was mowed one time last year and has not been mowed yet this year. She distributed photographs of the property, noting grass was very tall and caused allergy problems in her family to increase. May said her councilperson had not returned any of her phone calls and that the problem with this property comes up every year. She suggested laws be changed to allow properties to be mowed more frequently to prevent problems such as this, if that is needed, and stated that the owner is more than able to pay for the maintenance of the property but does not do so. Mayor Powell asked that she speak with Dan Tucker, Code Administration Director, at the back of the room.

Dennis Terry, 817 NW 34th Street, also complained about the condition of the property at 819 NW 34th Street. He said he had spoken with City staff and inspectors on a continual basis trying to get the property mowed. Terry said he had spoken with the owner, who did not care about the property and pays his attorney \$200 to get the liens released. He said he gets fleas and ticks in his yard from this property and wanted the nuisance abated. Mayor Powell asked that he also speak with

Mr. Tucker.

Raymond McCollister encouraged participation and attendance at the Lawton Rangers Rodeo.

The following portion is inserted verbatim:

Boyd: Mayor and City Council, my name is Stephen Boyd, and I'm here to talk to you, I've spoken with almost every, I believe almost every portion of the City offices, facilities about this issue, but now it's reached epic proportion. I'm here to talk about the Lawton Cable Franchise Agreement and violations. Looking here I've got about five violations of the agreement alone and then five other federal violations that currently need to be investigated. And the reason why I consider them all of major importance is because the City of Lawton may potentially be mentioned in a lawsuit concerning Lawton Cablevision and their inability to execute the franchise. Some of the specific areas related to the violations I would like to get investigated are in the categories, this is coming straight from the Lawton franchise agreement, page four of that agreement says that, in fact I have some exhibits here and I've sent the packet to your office, sent it to the City Manager, sent it to the City Attorney, and a group of other people, but the first, the first violation goes into page four of the agreement where it says the franchisee shall provide a total of three stations to be used for public access, governmental access and educational access, with one channel dedicated toward each category. The Lawton Cablevision has, I sent requests repeatedly to where we've exhausted the certified mail system in regards to the requests. I have a petition here, I think I have at least 60 to 100 different people requesting public access, and what it is, Mayor and City Council representatives, if you're not aware of it, just like you have channel 16 where it's free to the public for educational use, public access is the same thing. It's supposed to be free and it allows the people in the community to express issues where they don't waste the City Council's time, they can just speak on public access during a certain time frame 24 hours a day. And once again, it's a free service to the community per the franchise agreement, at least the way we interpret it.

The second violation that I believe that Lawton Cablevision is in violation of is on page ten of the agreement. I believe it's under section seven, rights of individuals: Franchisee shall not deny service, deny access, otherwise discriminate against subscribers, programmers or residents of the city based on race, color, religion, national origin, sex and age. It goes on and on. But I believe that the violation is a combination of discrimination on the part of race, color, religion and the fact that I am a programmer. I compete head to head with KSWO TV for advertising revenue and I believe that I am an entity that he would not like to see grow and prosper here in the Lawton and Fort Sill area, therefore he is exercising unfair trade practices, which lead over to some federal violations. Moving on, I believe that he's also in violation of page twelve that in fact: the franchisee fails to comply with all terms of the franchise ordinance or the franchise agreement. That's under section ten, violations and remedies, where the City has the right to revoke his agreement if he fails to abide by this agreement, at least that's the way I interpret it, and if I'm misinterpreting it, then I would like someone here to verify that.

Thirdly, I'm sorry, fourth violation, page 14 of the agreement, it's the last page where the City Attorney, the City Clerk, the Mayor and the cable operator signed this sheet and it's section e, it says laws governing the franchise: it shall be governed and be construed in accordance with the laws of State of Oklahoma and applicable federal laws. I believe that Lawton Cablevision, by denying public access to not only myself but to other individuals who've requested public access that he's in violation of what he signed and I'm here on a fact finding mission to find out what entity within the City government insures that this agreement is kept and it's not violated.

My final element I would like to submit is I believe that the franchisee being Lawton Cablevision is in violation of this agreement going to page eleven of a 14 page agreement, says: Payments due to the City under this provision, this is how the franchisee pays Lawton to have access to these easements and all these other things that the City and the citizens of this City pay for, payments due to the City under this provision shall be submitted monthly to the City. The franchisee shall file a complete and accurate, verified statement of all gross revenues derived from the provision of the cable service during for which such payment is made no later than the 15th of each month. Payments shall be paid no later than the 15th. Now the way, and I'm looking for some clarification on this, the way I define all and gross revenue is everything and that the City is supposed to get 5% of that. I've been through all the City records and I can find no where, and maybe it's forthcoming but to this date I can find nothing that shows that not only are we getting our full gross 5% revenue but we're not having any way of cross checking. We just get a check, we take the check on its face value and not verify through an audit or some other form that we in fact are getting our full 5% gross revenues. I bring that up because I know that we're in a budget crunching scenario here with the City, we're submitting a budget, we don't have money to do a lot of things. Well, I have a concern as a citizen here that if we're not getting all our money from Lawton Cablevision, how could we verify we're getting all our money from some of these other sources that we get revenue from. So that being said, there are about five other federal communications violations that are part of the agreement that also extend into that but because they're not directly related to the City Council, I will not elaborate on those. I do have one other spokesperson here that has an issue. I'm going to request my case and let Mrs. Boyd come up here.

Mayor: Let me say this in the beginning please. If this is repetitive of what Mr. Boyd said, but if you have anything additional, then please come forward. Your name, your address and your concern.

Vera Boyd: Greetings, Mayor, City Councilmembers, my name is Vera Boyd and I reside at 605 B Avenue, Suite 3, Lawton, Oklahoma. What I am presenting at this time is I have a letter of request, I don't know who I give it to, do I bring it forward? Basically, I, Vera Boyd, I'll read it, I, Vera Boyd, as a resident of the City of Lawton on this date, Tuesday, June 13th, am requesting the City Council and the City of Lawton to do a detailed, full audit on Lawton Cablevision located at 811 SW D Avenue for the past ten years. I believe that Lawton Cablevision is not providing full account of their revenue in giving the City the full 5% according to franchise agreement between the City of Lawton and Lawton Cablevision.

According to the franchise agreement, section eight, franchise fee, paragraph b, Lawton Cablevision, Inc. is to file a complete and accurate verified statement of all gross revenues. I have requested the public records to show account of this and to date have no proof of such has materialized. Now, let me state also that on Monday, June 5th, myself, Stephen Boyd, several ministers and a business entrepreneur did meet with the City Attorney, John Vincent, and the City Manager, Bill Baker, on this date requesting the same, however, we did not do it in writing, we just discussing it and they said they would look into it and provide this information to us. So at this time officially before the City Council members and City of Lawton and the Mayor I would like, I do have this in writing requesting this. Again because the reason that I am putting it in writing and bringing it before you, we had also requested, according to the franchise agreement, some information in writing that Stephen Boyd had asked for and the City Manager, I'm sorry, the City Attorney, and I quote, unquote, I cannot say the exact term because there are children present but he said I have not given you sugar, honey, iced tea in writing. So therefore I am presenting this to you in writing, my statement, if I can bring it forth.

Mayor: Sure you can bring it up.

Vera Boyd: And sir, the last thing that I have, and this is brief, is that I feel according to the franchise agreement between the City of Lawton and Lawton Cablevision that I am being, my rights as an individual according to section seven, again in the city franchise agreement between the City of Lawton and Lawton Cablevision, Inc. has been violated according to the subscriber practices. It says and clearly states that the franchisee shall not deny service, deny access, otherwise discriminate against subscriber, programmer or resident of the city on the basis of race, color, religion, national origin, sex or age, and I do have proof that I have been violated on all those counts according that I am a resident and I am a subscriber and also a programmer. On the race, I have a letter signed by Bill Drewry, he had clearly, through contact and written correspondence, considered me and called me a colored person, and then in the year of 2000 and him also being affiliated with KSWO Channel 7, a news station, that he should know in this day and age a person is not, I am black, referred to as colored. He has also made other derogatory statements which I do have a letter with his signature saying you corrected me and said you prefer to be called black and not colored and this is signed by him and I have proof of my letter that I wrote to him, but I have all this on file and I would like for you to look into it as my rights as an individual. Again, I met with the City Manager and the City Attorney and they said basically they, in all of your franchise agreement, that they can only handle the aspects that relate to financial and annual reports and such, but they do not handle anything related to the FCC so my question there is, why do you have an agreement with Lawton Cablevision if you can only handle certain parts, again this is according to the City Attorney mentioned this to us. If that's correct, how do I decipher between your agreement as a citizen, what is, what parts do you handle and what parts do you not handle. That is my question also. It's unclear.

Mayor: Thank you very much, Mrs. Boyd.

This concludes the verbatim portion of the minutes.

Dale Eubanks spoke briefly about placing a skirt around the Council table. Mayor Powell asked that he speak when that items comes up on the agenda.

Stephen Boyd asked if they would be given answers to their questions. Mayor Powell said responses cannot be provided and action cannot be taken during audience participation.

BUSINESS ITEMS:

1. Receive a brief presentation by Parks and Recreation on the current Lawton/Fort Sill In-Line Hockey program and the possibilities of its significant expansion. Exhibits: None.

This item will be presented at a later date.

2. Hold a public hearing and adopt a resolution declaring the structure at 1805 NW Dearborn Avenue to be dilapidated and detrimental to the health and safety of the community. Authorize the expenditure of CDBG Funds, if necessary, to demolish this structure. Exhibits: Resolution 00-__ Reports and photographs on file in Code Administration.

Dan Tucker, Code Administration Director, said on May 23 Council asked that this property be brought forward for consideration of condemnation. A video of the property, taken this morning, was shown. The property was ordered secured in March 1999, and ordered cleared of junk and debris. In May 1999 the junk and debris was not cleared and criminal charges were filed against the owner, and in May 1999 the City pumped out the pool. In July 1999 we requested inspections. Since July 1999 the property has been under the contract or care of the realty company, Mr. Jones, and since that time, any requests we have made through the realty company have been responded to; they have pumped the pool, they have taken care of the junk and debris, and the grass on the property. The property does stand open and is vacant at this time. A request was received by phone asking what could be done with the property and the response was to attend the meeting tonight.

PUBLIC HEARING OPENED.

John Jones, Parks Jones Realty Company, said they have had the property listed for sale since November 1999; they are marketing it through Fannie Mae, Federal National Mortgage Association, representing Mellon Mortgage Company. The property was listed for an investment buyer to repair; it is a burned property, nothing is burned through the sheet rock but

it is black and dirty. Upstairs there is a burned place through the roof but the property is repairable. Fannie Mae listed it at a price higher than was justifiable initially but the price is in line so an investor can repair the property and resell it at a profit.

Jones expressed concern at the method of notification to his company on this property. He said the property is under contract, the buyers are present; it was scheduled to close yesterday and is now scheduled to close tomorrow. The buyers found out about this by finding a notice of hearing in the yard. Jones found out about the hearing when Fannie Mae called him yesterday because they had received a notice to appear before Council tonight. He said he is the Fannie Mae representative in Lawton, and City staff have called him in the past when there was a break in and when it was unsecured. Jones said his sign is in the yard and asked why he was not contacted about the public hearing. Shanklin said he did not want to tear anything down but Jones knew he had the property listed and knew what it was and the neighbors did not want to live beside it.

Tucker said certified notices were sent to Mellon Mortgage and to Federal National Mortgage, and they were received on May 17. The property was posted at the same time the certified notices were mailed for those who do have an interest on the property and who are back and forth on the property. Mayor Powell asked if the realtor is notified and Tucker said only by the posting of the notice on the property.

Jones asked how Tucker would like to be in the position of those trying to purchase the property if they would have been able to close on it yesterday. Tucker said the owners, Mellon Mortgage and Federal National Mortgage, were notified on May 17.

Bob Nolan said after they close tomorrow, they will get a new roof, start cleaning out inside, resheetrock the inside of the ceiling, repaint the whole house, replace two or three windows, clean out the swimming pool, and that seems to be all that's wrong with the house. Mayor Powell asked a time frame and Nolan said his son would roof it as soon as the papers are signed, and the roofing should take about two weeks. Devine said the property is dilapidated but it appeared it could be repaired. Remodeling permit must be obtained and it allows six months for the work to be completed. Time required to obtain a remodeling permit was discussed and it would depend on whether there was structural damage to the rafters. Shanklin asked if Mr. Nolan planned to live in the house and he said he did.

Moeller asked why the closing had been delayed and Jones said it was due to the title search.

PUBLIC HEARING CLOSED.

MOVED by Devine, SECOND by Smith, to issue a remodeling permit and give them six months to do the work. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

3. Hold a public hearing on the Proposed Budget for the fiscal year July 1, 2000 through June 30, 2001. Exhibits: Preliminary Budget Summaries.

PUBLIC HEARING OPENED. No one appeared to speak.
PUBLIC HEARING CLOSED.

Mayor Powell said Item 5 needed to be considered next, as requested by the City Manager.

5. Consider a resolution approving the fiscal year 2000-2001 Budget. Exhibits: Resolution 00-54; List of adjustments and changes and Final budget summary (to be distributed).

Baker distributed a list of changes made at Council meetings, as well as changes and corrections recommended by staff. He said Council had expressed concern about not taking funds out of the reserves, so lapsed salaries were discounted 1% from the 101 Account, Salaries and Wages. \$100,510 was lapsed to balance the budget. Baker reviewed adjustments to reprogram into next year's budget some items contained in this budget that could not be completed this year. Those adjustments are: \$4,900 for office furniture in the City Manager's office, \$10,000 for the Elmer Thomas Park Master Plan; an increase of \$40,000 to be received from an ODOT grant for planning costs; \$47,100 for capital outlay at the lakes (in addition to the \$50,000 shown in the 2000-2001 budget); and to exchange the civilian Firearms Coordinator in the Police Department for a Police Officer to be assigned to the Training Division so he can be used for other duties in addition to the firearms range, and that change would not impact the budget.

Purcell asked if this would be adding one uniformed police officer and Adamson said yes. Purcell asked if there is now an estimated \$400,000 in revenue in City At Large in the hotel/motel tax, instead of \$360,000. Baker said yes, \$400,000 would be a more accurate estimate, and that is a break even type of thing.

Hanna asked if the two positions shown in Fire Operations and Fire Prevention, Assistant Fire Chief, were the ones brought up last week. Baker said yes. Hanna asked if funds were in the budget for those positions. Baker said it is in the budget, and in order to re-balance the budget he recommended lapsing \$100,510 from the salary accounts, so the budget is balanced with those positions in it at this time. Hanna asked how many Assistant Fire Chiefs we have and Baker said we do not have any. Hanna said the figure for the position stated before was \$142,000. Baker said Council approved the positions but not all the equipment to support them, such as vehicles, computers, uniforms, radios, and told the Chief to find those funds in his budget and he said that he could do that.

Moeller asked if the pump at the landfill was not needed. Mike Shaw, Assistant Public Works Director, said it was already purchased so it would not be needed next year. Baker said funds were left over from another purchase so he authorized the purchase from the existing year's budget.

Shanklin said we are down 150 fire runs from ten years ago, down 75 from five years ago, and asked why is there a need for an assistant or for another fire marshal. Don Barrington, Fire Chief, said the assistant fire marshal was requested to help keep up with the backlog of arsons and suspicious type fires. Barrington said the fire runs are down, but the overall total runs are up for the year. Barrington said the person would help pick up some of the inspections, plan reviews, and arson investigations. Shanklin asked how we handled the number of runs we had in 1990 and 1995 with the same number of people, and we keep going down. Barrington said we have expanded in the community since those times, and have more plans reviews and inspections to help with the ISO ratings. Shanklin asked Mark Mitchell if he needed that much help and Mitchell said yes. Shanklin said he did not want this to be a political payoff. Mitchell said it is not.

Purcell asked if the fire marshals also spend time in schools for fire prevention and Mitchell said yes, and arson is probably 20% of their duties.

MOVED by Purcell, SECOND by Devine, to accept the budget with these changes as presented and adopt Resolution 00-54.

Smith said he was not real fond of doing this but had been enlightened in the last few days. He asked Mitchell to explain what his office does for the City. Mitchell said the primary mission is to ensure the safety of the citizens of Lawton by preventing fires; duties include fire investigation and if it becomes arson they follow up with the criminal investigation; they do all inspections for code enforcement throughout the community as it relates to fire safety and that involves day care homes, day care centers, nursing homes, hospitals, restaurants, and taverns. Approximately 1,000 inspections are done annually and they may go out once, note deficiencies, and return to be sure corrections were made. Staff members do plans reviews, approximately 157 plans were reviewed last year for commercial or commercial remodel, from plans through the final building inspection. Public education is done through the division and they are working on a NFPA program called Risk Watch, and it is an effort through the Lawton Public Schools and covers eight different types of childhood injuries, to include fire. They maintain all the state and national fire reporting records, and work with Engineering and Public Works on doing a comprehensive study of the water distribution system and compiling a new data base that will improve the ability to track fire hydrants that are improperly spaces or connected to small water lines.

VOTE ON MOTION: AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

(Title only) Resolution 00-54

A resolution of the governing body of the City of Lawton adopting, approving and promulgating an official budget for the City of Lawton for fiscal year 2000-2001 in accordance with the provision of the Municipal Budget Act of the State of Oklahoma; approving the appropriations, estimate of revenues, and the planned expenditures contained in said budget for fiscal year 2000-2001; establishing and approving the Sinking Fund levies set forth in said budget for fiscal year 2000-2001; and directing that said budget be filed and published in accordance with State law.

4. Consider a resolution approving modifications and revisions to the City's existing general pay plan; providing for limitations; establishing an effective date; and repealing Resolution 00-12 as amended. Exhibits: City Manager's memorandum of April 14, 2000; Resolution 00-55.

Baker said this is related to the budget which included a 3% cost of living increase for general employees. He said this pay plan reflects that 3%, as well as upgrades for certain positions received through department directors. Baker said he received many more than this but recommended the ones in the resolution; we missed the mark on these positions when we did the last classification and pay plan and they warrant upgrade. Total cost in that regard is \$36,000, which will not have an impact on the budget. He said salary schedules are included for regular part-time and temporary employees; to this point it has not been a consistent process and this will provide consistency.

MOVED by Smith, SECOND by Hanna, to approve Resolution 00-55. AYE: Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

(Title only) Resolution 00-55

A resolution approving modifications and revisions to the City's existing general pay plan; providing for limitations; establishing an effective date; and repealing Resolution 00-12 as amended.

Mayor Powell asked that Item 14 be considered at this time and there was no objection.

14. Consider approving funds to modify the Council table. Exhibits: None.

Baxter said he requested the item, which had been brought up before but it included redoing the entire stage and had a very large cost involved. He said it was brought up after that to put up a wooden piece to help hide the laptop computers, and it was also going to be more money than what is being considered today. He said the City Manager came up with the idea of putting up a little curtain that would come up a little higher than the table and block the view of the objects on the table so it does not look so trashy and junky and would look a little nicer. Baxter said those in the audience can see under

the table about eight inches where feet are showing and some feet hanging out the front of the table, which is not attractive or professional looking.

MOVED by Baxter, SECOND by Devine, to approve to have a shroud put up here around the Council table.

Baker said \$2,500 is a rough estimate and that would be the outside limit. Purcell said the story in today's Lawton Constitution was a bunch of garbage and made no sense. Mayor Powell said he had received several telephone calls on this. Shanklin said he wanted to see a picture of what was being proposed.

Dale Eubanks said for \$2,500 he did not care what the Council members were drinking and did not care if you could see feet under the table. He said if you just want to spend some money, give it to the Kids Zone. He said a lady who spoke earlier said she did not get her call returned from her councilman, and that he had been in a similar situation. He encouraged the members to return calls from those they represent. Eubanks said we are not Congress in Washington, D.C. and there is no sense in fighting on the Council floor and he did not even like for his kids to watch the Council meetings. He asked that the members conduct themselves as ladies and gentlemen.

Gary Secor, 4950 NW Lindy, said he read the newspaper also and was appearing only as a citizen and not representing anyone. He said he heard the word professionalism used tonight, and it was in the newspaper that this would give a more professional appearance. Secor said tonight he saw boxing gloves on the table and that is not a professional appearance. He said he did not let his kids watch the Council meetings or professional wrestling. Secor said \$2,500 is an outrageous price when the material costs \$1.90 per foot. He said you keep using the word professional but you do not act it, not everyone, and you should not use the word until you start acting in that manner.

Fred Leatherwood, 710 SW Chaucer Drive, said he read the article and agreed first impression is everything and something is needed around the table. He said if a businessman was willing to spend \$1 million to bring his business here, he would want to see how the city was being run. Leatherwood said you can see papers scattered around and something was needed. He said as far as professionalism, he agreed with both of the speakers that the Council must act as professionals. Leatherwood said if he was watching Channel 2 and saw his councilmen going at each other and one having to hold another back, and if he had a million dollar enterprise, he would not bring it to Lawton. He asked the members to remember they were elected by the citizens to run this City with the best interest of the citizens. Leatherwood said everyone is saying the covering is not needed, but it was his opinion that it would be helpful because he can see the City Attorney's shoes and if professionals want to come here to establish a business, they should see a professional appearance in the Council Chambers.

Devine said staff seems to inflate prices and this may be well out of proportion, but it is needed to improve the looks of the room. Mayor Powell said if this does pass, it should not be too high or he could not see out there. Shanklin asked if a drawing was available. Baker said a picture or some of the fabric could be brought back, along with a better cost estimate, but the cost would depend on what is used.

SUBSTITUTE MOTION by Smith, to approve this and allocate the funds out of the Council Contingency Fund and not take the money from the budget.

Shanklin asked if Baxter was agreeable to tabling it until Council could see what it would look like. Baxter said he was tired of postponing it and Council has been talking about it for eight months and he had only been there a month but the others had talked about it for seven months. Shanklin said he had never talked about it. Baxter said he saw someone carry a big four foot wooden object in and set it up once before he even ran for Council and that was ridiculous, but this is a simple little deal, a gathered piece of cloth to go to the floor and stick up only a little way to hide the clutter.

Mayor Powell said he received telephone calls and said he would pass that along and he had received no calls in support but had received calls in opposition.

Purcell said Council spent more time worrying about the table than it did on the budget. He said part of it was caused by the newspaper article and this will only cover this up so they need to get on with it. Purcell said if \$2,500 is too much, tell staff not to spend so much and put a limit, but do not bring it back again. Shanklin said plywood with Formica would be more substantial than a piece of cloth, and others use the room besides the City Council.

SUBSTITUTE MOTION by Shanklin, SECOND by Haywood, to table this until we get a drawing that we can see what it is. AYE: Moeller, Haywood, Hanna, Shanklin. NAY: Baxter, Smith, Devine, Purcell. TIE VOTE, MAYOR VOTED YES, MOTION CARRIED.

6. Request Council view power point presentation from Great Plains Technology Center. Exhibits: None.

Clarence Fortney, Great Plains Technology Center, gave a power point presentation concerning Fire Training-EMT Program. A copy of the presentation material is on file in the City Clerk's Office. Purcell asked if they teach a basic EMT program. Fortney said they teach from basic to paramedic level.

7. Consider amending the Cooperative Purchase Agreement between the City of Lawton and the Great Plains American Business Club for the development of Kids Zone to be located at Greer Park to provide for restroom facilities and authorize the City Engineer to terminate the agreement with Mr. Gene Hollar for design of the Greer Park Restroom. Exhibits:

Amended Cooperative Agreement.

Vincent said the restroom was to be built through volunteer labor with the City providing \$60,000 for the purchase of materials and equipment. It was found this could not be done on a timely basis to meet the Kids Zone requirements. Recommendation is to amend the existing contract with AMBUCS and provide them \$60,000 and they would provide a turn-key restroom.

MOVED by Smith, SECOND by Devine, to approve amending the Cooperative Purchase Agreement between the City of Lawton and the Great Plains American Business Club for the development of Kids Zone to be located at Greer Park to provide for restroom facilities and authorize the City Engineer to terminate the agreement with Mr. Gene Hollar for design of the Greer Park Restroom. AYE: Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

8. Consider approving Change Order No. 1 for the 2000 CIP Waterline Replacement Project 2000-12 with S.M. Burk Mechanical Contractors. Exhibits: Location Map; Correspondence from Fire Marshal; Memo from Public Works Director.

Mike Shaw, Assistant Public Works Director, said this is a follow-on to the previous item concerning the restroom in Greer Park; the Fire Marshal has notified the City Manager and Public Works Director that a fire hydrant will be required for adequate fire protection even though the restroom will be the only facility there. Recommendation is to approve a change order to the contract with S.M. Burk for \$11,900 to lay the line and install the fire hydrant while he is in that area.

Devine said he had a problem with this and had talked with Mr. Baker. He said the building will be almost burn proof and he could not understand why \$11,000 needed to be spent and that Baker had made the statement to him that this could be waived if needed. Devine said if we are going to abide by every code that we have in place to put this Kids Zone in, you do not want to hear the amount of money it is going to cost. He said we need to back up, look at this and use a little common sense for a change; he asked if it is a must that we have to have this fire hydrant in there.

Mark Mitchell, Fire Marshal, said he required the fire hydrant because the current code requires it due to the lack of hydrants on that side of 38th Street; closest hydrant is at Kinyon at the top of the hill on 38th. He said due to the monetary community investment being made in the Kids Zone project, and it is considered an outdoor assembly occupancy and will be constructed almost entirely out of wood and combustible materials at about \$250,000 and it seemed to make sense that this type of a community draw would very likely attract additional assembly activities of scouts or other groups. Mitchell said there is the potential for a large number of vehicles. He said they did not want to have to shut down 38th Street to be able to access a hydrant in case of a fire on the other side of the street. Smith asked if 38th Street would not be shut down anyway if there was a fire in that park. Smith said he had been going down Cache Road and it was closed both directions due to a fire. Mitchell said sometimes that is done and it depends on the location of the hydrants. Smith said there were no hoses going across the street in the instance he was speaking of. Mitchell said he did not know if it may have been due to smoke. Smith said that was just his observation. Shanklin said the Council determines what the City Code says and Mitchell agreed.

Devine said he brought it up, and he wondered how far our feet would be held to the fire to get this built. He said he had asked the City Manager this and they had looked over it, and he asked Baker if we would abide by code on everything on this as we go along. Baker said when they first discussed this he did not know whether it was actually a code requirement and he asked the Fire Marshal specifically what required this, was it required and what required it, and he responded with the citation from the City Code that did require it, and in addition some of the justification that he just mentioned that even if it was not required that it would probably be in the best interest of the community because of the investment in those facilities. Baker said another thing we have to be careful of is that the City needs to comply with the same standards as private individuals and businesses and we cannot put ourselves in a position where we are waiving our own codes when it is our project. Baker said to answer the question, yes, we need to meet all the requirements of our code, but he had also told Devine that bureaucracy will not stop this project; we will find a way to get this thing done because it is too big of a community effort with too many people involved and it is a wonderful project; we will find ways to get it done but there are certain basic things in the code that we will have to do.

Devine said he had no problem with this, if we need it, that is fine, because he did not want to do anything that would hold up the Kids Zone. He said he was 110% for it and wanted it done, but he had brought it to the City Manager that our own staff has already started trying to stack the dominoes against us. Devine said this is the first step that is going to create this domino collapse, and asked if he was right or wrong. Baker said they had that discussion but they would work through the problems, we are not going to jeopardize this project and it is going to be done and there will be full cooperation and support of city staff. Baker said if we find things that we have to do then we will address them; one reason the change order is recommended is to expedite this water line so it will not hold up the project, obviously the restroom is needed as soon as possible, and we committed to try to get it in before the Kids Zone was built. Devine said he was in agreement but did not want anything to hold this up and wanted to make sure that this is brought before the Council and the Council was aware of the obstacles. Devine said he had not brought them up because he really did not want to but they have already started hitting him because he is a contractor and the contractors are already out there saying are you going to meet all of the codes that you are requiring us to meet. Baker said yes, we have to. Devine said OK.

MOVED by Devine, SECOND by Haywood, to accept this and go ahead and get the fire plug in as soon as possible.

Mitchell said they want the project to succeed and are not trying to cause a problem. He said there was a fire at the tennis

court in that park about ten days ago where some juveniles set the court on fire with gasoline, and if the wooden structure that is such a large monetary community investment were on fire, they would need the water supply to put it out. Devine said he knew the fire plug was needed but it came back that it was according to code and that was what he wanted to bring forward and wanted it very clear because he had already caught flack over it and had told the City Manager what was going to happen.

Purcell said this may be a great opportunity for the City to see if we find we have to "waive", that may tell us there is something wrong with our policy that we need to fix. He said this building will be more than a restroom and it would be a pavilion, storage, and a restaurant on one end, so the word should be put out that this is not a \$100,000 bathroom.

VOTE ON MOTION: AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

9. Consider utilizing \$200,000 in funds from the 1995 C.I.P. and \$75,000 in funds from the Park Fee Fund for the initial phase of a park renovation and a park improvement program proposed by the Parks and Recreation Department. Exhibit: Park Renovation Proposal.

Gary Salva, Parks & Recreation Director, said 40 neighborhood parks are in need of significant improvement and this item addresses the first phase of this issue. He said they want to put in decent play structures, sidewalks from the curbs to the play structures, small pavilions and tables that are ADA accessible, water fountains, shade trees and bring the parks to a state where the neighborhoods will have pride in them. Salva said the Park Fee Fund contains almost \$100,000 and this money was given in lieu of land from certain developers and it was originally intended for park expansion or addition. He said a funding source was needed for park improvement and they checked with the City Attorney and we can use the Park Fee Fund for improvements as well as land acquisition. Salva said the \$75,000 would go toward certain parks that qualify for the Park Fee Fund because the money has to be spent where it was generated, around those neighborhoods. Six of the parks are on the top 20 list as being in dire need of renovation. The improvements are planned for parks where complaints have been received. This does not solve all the problems but provides a start toward that goal.

MOVED by Smith, SECOND by Baxter, to approve the staff recommendation.

Haywood said \$30,000 was shown for George M. Lee Park and asked about restrooms. Salva said he believed it would be similar to those at the wading pools.

Devine asked if there would be restrictions to prevent people from using the parks as public access or private access to their private property. Salva said they are currently looking at the parks where there are problems in this regard and that Devine had recently brought to his attention where private access is being made through a park. Salva said they planned to take appropriate action so that those residents bordering the parks do not benefit from the park by specific access to their property.

Hanna asked if this included the park they discussed over a month ago. Salva said no, because money has been budgeted for Carroll Park and the equipment should arrive within two to three weeks, and a security light will be installed and the access road will be secured.

Haywood said there is no equipment in the park on Carver on the east side of the canal, and he asked if that would be in the second phase. Haywood also asked if more equipment would be put in Council Heights Park. Salva said Council Heights is one of the top 20 parks and it would be in phase two. Salva said these parks were selected partly because they qualify for use of the Park Fee Fund and partly because of the complaints that have been received, and phase two can begin as soon as Council directs.

Shanklin asked for an explanation of the Park Fee Fund and how a park is qualified. Salva said developers are required to give either land or money when they construct a development and if the department does not wish to accept the land, which is sometimes not very attractive land, we can request they submit fees, which are usually about \$7,000, to be deposited into the Park Fee Fund, and those funds have accumulated over the years. Shanklin asked how Wilson Park qualified since the area was developed 40-50 years ago. Devine said that park is done with CIP money, not Park Fee Fund.

VOTE ON MOTION: AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

Parks to be renovated/improved: Park Fee Fund: Putney Park \$17,000; Country Club Park \$10,000; Garden Village Park \$15,000; Prairie Park \$33,000. 1995 CIP to fund renovations: Crystal Hills Park \$14,000; Great Plains Park \$22,000; 33rd Street Park \$14,000; Stephens Park \$14,000; Wilson Park \$14,000; Sungate Park \$14,000. 1995 CIP to fund Improvements: Skateboard facility \$10,000; McMahon Park Soccer Field Construction \$40,000; Greer Park Tennis Courts \$11,000; George M. Lee Park \$30,000; Skyline East Park \$17,000.

10. Approve a new policy for the Highland Cemetery that would permit City staff to remove artificial flowers, cut flowers and memorabilia from grave sites on a weekly basis. Exhibits: Videotape of present conditions at the Highland Cemetery.

Salva said Roy Pennepacker, Cemetery Board Chairman, is present regarding this item. He said the Board has been working for six months on revising the policies and procedures manual for the cemetery, and it will be brought for Council

approval in the near future. Salva said one policy change really stands out, and that is the one to be discussed tonight. He said the Cemetery Board and staff feel strongly about maintaining a truly reverent and high standard of maintenance for the cemetery. There has been a long standing concern that because there is no policy regarding memorabilia, cut flowers and artificial flowers off the grave stone, it is truly a maintenance headache. Salva presented a video to illustrate the conditions being discussed.

Salva said the policy could be possibly questioned by people because it is changing a way of practice that has been going on for many years. He said policies such as this are considered to be standard at cemeteries throughout the country. During the growing season, March through November, we would be removing the cut flowers, memorabilia and artificial flowers once a week and disposing of them. Salva said the City Manager requested the Cemetery Board make an allowance for Memorial Day for a two week period extension, and that would be on their next agenda. He recommended the policy not take effect for six months to allow all people to be informed through signs and public announcements. Salva said it would increase the quality of maintenance and decrease the man-hours required, and people will adjust to it.

Purcell said people bring artificial flowers and asked if they would be removed after a week. Salva said only if they are placed in the grass; many monuments have permanently attached vases and those would stay; it is only where we are mowing grass that we would pick them up on a Wednesday or Thursday of each week only through the growing season, and for a period during Memorial Day. Purcell said the film showed a great deal of memorabilia, but if a person puts artificial flowers in the middle of a stone plate, would that be removed, or only if it is on the grass. Salva said only if it is on the grass, and anything that is not permanently attached, such as toys, decorations, and every time you run a mower by it, you spread grass over it and you have to take them off to weed eat, so the hardest thing for the public to become used to is that the memorabilia that they bring, and truly cherish, will be removed.

Smith said he had a real problem with this, and understood the flowers and the plastic ones especially, but the problem was in removing memorabilia because that is part of their life. He said when his son died and they buried him, they put some stuff out there and it is still there and that was 19 years ago. Mayor Powell said it is a symbol of that person in many instances. Salva said we are not introducing something that is new and this is a standard policy among most cemeteries. Smith asked if Salva had checked with the other cemeteries, such as Sunset. Salva said they had actually checked nation wide and many cemeteries have weekly removal of the items mentioned.

Shanklin asked if Smith's memorabilia was in the mowing area. Mayor Powell said Salva was saying to remove all of it, regardless of where it was, on the memorabilia.

Moeller said the grave site in the video had quite a lot of items on it and she asked how many graves have that much decoration. Roy Pennepacker, Cemetery Board Chairman, said there are 200 graves in the children's area and that is where most of the items are located. Moeller said that is one of the hardest things for a family when they are grieving and she suggested the recommendation be modified. Mayor Powell said if it is on the stone or some place where you are not mowing or weed eating, that could be taken into consideration, and that he was not talking about the flowers. Salva said the recommendation was specific wording, very carefully chosen, that was approved by the Cemetery Board, and if Council wished not to approve it, the Cemetery Board could consider it again at its next meeting if there were requests to modify this. Salva said specific suggestions for the Cemetery Board to consider would be helpful.

Devine said he could not support this and felt more work was needed. Mayor Powell said he had received calls about the maintenance of the cemetery, and he appreciated the thought behind the recommendation, but he felt some work should be done so far as the personal items, in his opinion. Purcell agreed and asked if staff was speaking of flowers or memorabilia that was sitting in the middle of a flat grave marker stone, or if it was those items that were in the grass surrounding the stone. Salva said the grass grows over the stone, so the memorabilia must be removed, each stone trimmed around, and the memorabilia put back. Purcell said he agreed with Mayor Powell in having a problem with this. Mayor Powell said he took care of the stones of his family and did not run a weed eater across them as was shown in the video but instead he would edge around it.

Moeller said limiting it to just one set of flowers would cause difficulties when there are larger families. Salva said an additional caretaker was granted for the cemetery, and that is truly appreciated, but people are buried there every week and the present work staff has not changed for well over ten years, up until this budget year. He said the number of graves has grown greatly and an issue to consider in the near future is where a new cemetery might be located. Salva said the number of graves has increased, one person has been added, and there have been complaints about the maintenance at the cemetery which is bad because it should be the best maintained land the Department maintains.

MOVED by Moeller, SECOND by Devine, to take it back to the Parks & Recreation for reconsideration and also possibly look at volunteers, either families or groups, to help maintain that cemetery. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

11. Consider a report from Community Capital Group on the Section 108 Loan for the Dunbar Renovation Project and provide guidance to staff. Exhibits: Final Report from CCG (provided under separate cover).

Baker said the City has been working with United Social Action, Inc. for at least two or three years on the old Dunbar School that they want to turn into a community center. Staff has tried various mechanisms to obtain funding either through loans or grants, and a consultant was retained to tell us how to get this project done. The consultant has given his report, although he could not be present tonight.

Frank Pondrom, Housing & Community Development Director, said in 1997 we applied for a Section 108 loan and EDI grant to fund the renovation of the Dunbar School. Section 108 is a HUD program that allows cities which receive CDBG to use their allocation in a loan and repay it over a 20 year period. Economic development initiative (EDI) was also a HUD program which was put in place to provide additional security for Section 108 loans, and it stands between the ultimate lender and the CDBG so that in the event of a default, EDI funds would be paid off first. The EDI request was submitted to plug a severe funding gap, the total project was \$1.2 million, and looking at the cash flow from the project for approximately 12,000 square feet at \$4.50 per square foot, the only debt service about \$50,000 per year and that totals Section 108 of about \$450,000 and that is what we applied for. We applied for a \$740,000 grant to go along with it. The EDI grant was not received, however, in 1998 we did receive notification from two of the prime lessees that they were no longer interested because they could not wait any longer for the facility to be done. Pondrom said a consulting firm was hired, Community Capital Group.

Haywood said Pondrom had been telling them about putting \$50,000 per year aside for 20 years, but when the expert came he said the same thing. He said he came on the Council in July 1998 and Douglas Street was to be rebuilt and it was to be concrete but ended up being asphalt and the difference in funds was used for another project. \$60,000 was allocated for the roof at Dunbar. Haywood said Dunbar is a part of this City and affects Lawton View, Ranch Oaks and the other neighborhoods. He said he attended Dunbar and it was special to him. Haywood said Coach Powell was on the Board of Education when the building was given to USA, Inc. and that he (Haywood) was the project director for USA at that time. He said they held Make A Difference Day and he appreciated the Mayor coming out with his truck and helping with the clean up, and \$1,000 was raised. Haywood said people in that area are tired and want something to happen. He said the morale improved in the area when the roof was put on and then it stopped.

MOVED by Haywood. SECOND by Shanklin, to provide guidance to staff based on the recommendation of the consultant.

Devine asked if the biggest part of the potential tenants had backed out so there would be no revenue at all to help support it. Pondrom said the original tenants were the Great Plains Improvement Foundation and Marie Detty, and those people are no longer interested in becoming the prime tenants, although they will give moral support and may rent space if an opportunity becomes available. Devine asked if there would be any additional revenue other than what the City was being asked to commit. Pondrom said part of the recommendation from the consultant was to get away from the idea that this was a bankable project, and the philosophy was that the City of Lawton become more involved in the carrying out of the project.

Pondrom said one of the main recommendations was that we tell HUD this is no longer an economic development project but it is a public facilities project. He said that would significantly reduce the paperwork but also knocks out any chance of an EDI being tied to this Section 108 loan; it also means we would not be loaning the money to USA, Inc. for the building and we would have to have an agreement on how the facility would be operated after the improvements, but they would not have to pay the loan back and it would be a grant backed up by CDBG funds.

Purcell said he had no problem with the City using \$50,000 annually from CDBG, but it has turned from USA doing something to the City doing it. He said in addition to guaranteeing the \$50,000 per year from CDBG, the City would have to guarantee it in some other manner because if the federal government cuts off the CDBG program, the City would be liable for the entire loan out of other funds, other than CDBG. Purcell asked Pondrom if that was correct. Pondrom said that was not quite right; the documents on Section 108 hold the City harmless from anything but CDBG funds so that is the only thing that is at risk. Vincent said every year we get a letter of credit from HUD that we draw on for the operation of CDBG, and at any given time there is a balance which is usually sufficient to pay off any outstanding loans, so we will pay them \$50,000 per year plus give them a guarantee against the letter of credit.

Purcell asked if the City has to come up with the \$50,000 per year if CDBG is done away with and Vincent said no, they could draw against the letter of credit for CDBG but no City funds could be taken.

Baxter asked if \$50,000 per year for the next 20 years would come out of CDBG public service funds. Pondrom said it would be a public service project, but this \$50,000 will be from public facilities and not from those entities who now receive funds through the public service portion.

Haywood said the same thing is done in Oklahoma City on 23rd Street, in Shawnee and in Tulsa.

Pondrom said he wanted to take a day out from his vacation to the east coast to deliver the letter outlining the consultant's recommendation, at the City's expense, which would be a day trip for a couple hundred dollars, and that he would provide a recommendation for funding \$50,000 from the current year's CDBG budget. Baker said he understood the consultant would be willing to do the paperwork for a nominal fee. Pondrom said that was correct, they would not put anything in writing but said about \$500. Baker said that should be done due to time requirements and having them fill out the application.

Baxter said he had a problem in dedicating funding for a 20 year period, and that he could not see the building being worth \$1 million in 20 years. He said he also had a problem with the \$50,000 coming out of somewhere but staff did not know where yet. Haywood said CDBG funds must be used for low and moderate income people and this is the target area. Baxter did not feel spending \$1 million on a building was the proper use of such funds.

Purcell asked Haywood if this was the last money the Council was going to be asked to come up with to put in Dunbar, or if more money would be requested next year, and there must be an end to it somewhere. He said he could support it if this is all. Haywood said USA, Inc. has to turn in invoices and they are not getting money for their organization but for Dunbar. Haywood said his job was to try to secure all the funding he could for organizations and that he could not say this was all the money needed or that may be requested for Dunbar because he did not know what may happen later on. Mayor Powell asked if Haywood could foresee anything. Haywood said he did not see anything else but thought some money could come about in a different way and that Pondrom could check when he would be in Washington, D.C. Purcell said he was talking about the building and not the activities that would take place there, and there has to be an end as to how much the City would put into that building. Moeller asked if City funds could be required to repay the loan and Vincent explained.

VOTE ON MOTION: AYE: Purcell, Shanklin, Moeller, Haywood, Smith, Hanna. NAY: Devine, Baxter. MOTION CARRIED.

Consultant's recommendations were: 1) The Section 108 loan be characterized as a Public Facility Project and not an economic development loan to United Social Action, Inc. The result of treating the application in this manner has several implications - No EDI Grant is allowed. USA, Inc. will not be the recipient of a loan of \$445,000 which they have to pay back by leasing the building. paperwork is significantly reduced because no public Benefit Justification of Economic Benefit Underwriting is required. An agreement with USA, Inc. for operation of the facility after improvements if required. 2) The Section 108 Loan would be collateralized by pledging the outstanding balance in the CDBG Letter of Credit. At any given time there is a balance in the CDBG fund of \$800,000 to \$1 million. Although these funds are earmarked for projects for the most part, they are not the subject of a legally binding contract. In the event that the CDBG program is eliminated by Congress the City of Lawton can agree that before all other expenses are paid that HUD would use the balance to retire the Section 108 Loan debt. This procedure clears up a major problem of finding "additional security" required by HUD for the project. In addition, CCG recommends that \$50,000 of CDBG funds be programmed in the upcoming budget that starts 1 July 2000 for contingencies - notably a ECO-1 Economic Survey to be sure no hazardous materials are associated with this site. 3) To the extent possible use HUD boilerplate legal documents. 4) Use "design/build" with guaranteed maximum price. In RFP procurement offering, establish both phasing and scope priorities to keep within budget and allow for future work. 5) As a condition of funding the City should require USA, Inc. to cover any/all costs of operations including escrowing reserves for replacement. USA, Inc. must agree to provide professional management of the property and to oversight by the Department of Parks & Recreation. In allocating space in the facility, first preference must be given to neighborhood serving non-profits. Those non-profit tenants would be required to pay their pro-rata share of the operations/reserves. If the CDBG program is canceled, the non-profits must also agree to increased rent as their share of the outstanding Section 108 debt service.

12. Consider adopting a resolution designating places and times within municipal jurisdiction to discharge fireworks on July 4, 2000. Exhibits: Resolution 00-56.

MOVED by Smith, SECOND by Haywood, to approve Resolution 00-56 designating places and times within municipal jurisdiction to discharge fireworks on July 4, 2000. AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

(Title only) Resolution 00-56

A resolution designating the places and times within the municipal jurisdiction in which fireworks may be discharged on July 4, 2000.

13. Consider adopting an ordinance approving Supplement No. 4 to the Lawton City Code, 1995, notifying the public of the publication of Supplement No. 4, directing the filing of Supplement No. 4, establishing a fee for the sale and declaring an emergency. Exhibits: Ordinance 00-17. Supplement No. 4 to the Lawton City Code, 1995, on file in the City Clerk's Office.

Vincent explained this is done periodically to put the ordinances which have been passed by the Council into the code book.

MOVED by Purcell, SECOND by Haywood, to approve Ordinance 00-17, waive reading of the ordinance, read the title only, and declaring an emergency.

(Title read by Clerk) Ordinance 00-17

An ordinance approving Supplement No. 4 to the Lawton City Code, 1995, directing filing and notification of the publication of Supplement Number 4 to the Lawton City Code, 1995, and establishing a fee for the sale of Supplement No. 4, and declaring an emergency.

VOTE ON MOTION: AYE: Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

ADDENDUM:

1. Consider appropriating funds from the 2000 Capital Improvement Program to support the National Army Museum of the Southwest. Exhibits: None.

Mayor Powell said he requested the item and that everyone thought this project would be done and the funding would be

provided, but the day after when it was reported, he wrote to the Governor and elected officials in the Southwest area to express disappointment and hoping there was a window of opportunity where this might happen. He said that night he thought about what have we done, and this is a \$15 million facility, a national museum, and the things to fill it are right here collecting dust. Mayor Powell said there is a fight going on now to get this established on the east coast, but we hope this can be done here through state funding and wherever else the money can be found, and that the national will not come through with funding to put it on the east coast, and we have to beat them to it. He said he started thinking what Lawton had done for it, other than lip service, and he asked the City Manager to place the item on the agenda whereby the Lawton City Council could provide funds in the amount of \$250,000 toward this \$15 million project. Mayor Powell said there is \$1.5 million in the economic development funds in the 2000 CIP and if you get \$15 million for every \$250,000 you spend, you would receive \$90 million, so this would be a good business person's decision to do this. He said the Army has said they will staff it and pay for everything, all we need is \$15 million then we are on target.

MOVED by Hanna. SECOND by Shanklin, to approve the \$250,000 from the 2000 CIP to support the National Army Museum.

Hanna said it will bring prestige and jobs to our city, and we will make that money back over a short period of time.

Purcell said he also contacted all the State legislators and the Governor, and heard back from one State legislator. He said it looked like this may be brought up in a special session, although it would still be a fight. Purcell asked if this is approved tonight and the state approves \$15 million, are we committed to giving them this \$250,000. Vincent said if the State fully funds it and the Council wants to change their minds before the funding is paid to them, they can certainly do that.

Purcell said if the State does not allocate the \$15 million to build the museum, we also would not have to pay them the \$250,000. Vincent said that is correct. Vincent said at the appropriate time we will have to enter into a contract with the State to provide this \$250,000 in funding when it comes to the point that they need the money. Purcell said if the State does not do what it is supposed to do, we have not lost the \$250,000.

Mayor Powell said they may not get the \$15 million the first go around because they might only come up with \$5 million or \$7 million, but we do not want to stop there. Purcell agreed.

Moeller said she thought \$1.2 was included in the CIP instead of \$1.5 million. Mayor Powell said it started at \$1.5 and was reduced to \$1.2 million.

Baxter asked if the State legislators dropped the ball on the Fort Sill Museum. Mayor Powell said all they really knew was what they had read in the paper so he was not sure but had received letters back, but he hoped we could join hands with them and make this work because it is to our benefit. Mayor Powell asked where else you could do this and receive all of the benefits of this.

Moeller said she agreed with the museum but had a little problem taking it out of the CIP because there are so many things that need to be done. She asked if there is any other source of funding. Mayor Powell said he asked for that to be checked out and Baker had asked the City Attorney and he said this is where the funds should come from. Moeller asked if it qualifies for economic development and said CIP and economic development are not necessarily the same thing. Vincent said the 2000 CIP included the \$1.2 million economic development element as part of the project.

Smith said he supported the idea of the museum but could not support taking funding out of the economic development fund. He said when we approached the citizens on the CIP issue, he specifically stated during that night that we voted on this that the \$1.2 million would be used only for infrastructure development to bring in new businesses and everybody at the table who was seated at that time agreed with that, and said that it would never be used to just hand out money, it would only be used for infrastructure. Smith said he would not support this because he told the taxpayers he would not give the money out except in infrastructure development. Shanklin said we can designate this \$250,000 for infrastructure. Smith said he was talking about giving \$250,000 to help build a museum, not building roads and water lines. Smith said that was what they said as a body.

Mayor Powell said he was sure Smith knew exactly what he was talking about, and in his journey that he went on he never even suggested anything like this because you never know what is out there in the future, or what it might be used for. He said he recalled someone saying they wished they had it now because the airport hangar out there needed the big hole cut in it, so on the journey he went on, he never said one time that it had to be used for infrastructure. Smith said yes, the Mayor did, and he would get the minutes on that because he (Smith) made the statement and the Mayor said that was exactly right. Shanklin asked if it was in the resolution. Smith said he did not know if it was in the resolution but it was what they told the citizens from this table.

Moeller said they had been talking about a transit system for some time and to her that would be far more paramount than the museum, which she was in favor of but the transit system would be more important if they had the money to do one or the other but not both.

Baker said if you could legitimately use CIP funds for the transit system, and he did not know that answer, but if you could, then yes, the Council would have the money. He said there is \$3 million unappropriated in the 1995 CIP, so you would have money to do both if it was a legitimate expenditure of CIP funds and the City Attorney would have to address that.

Smith asked if there was \$3 million left in the 1995 CIP and Baker said yes. Smith said he would wholeheartedly support taking the \$250,000 out of the 1995 CIP. Mayor Powell said that was the first thing he asked for and was told it could not be done that way. Vincent said that was the first thing they researched; the 1995 CIP had eight categories of where the money could be spent, and only for those eight categories, and whether mass transit falls within capital improvement he would have to look it up. Vincent said we do have a mass transit authority that is charged with the function of funding mass transit and staff members have been talking about that.

Purcell asked if the \$1.2 million in the 2000 CIP for economic development, you do not know if that money can be used for mass transit. Vincent said he did not know if mass transit would meet the definition of capital improvement and he would have to look that up. Purcell said if it does, we could then use some of that \$1.2 million for mass transit. Vincent said theoretically part of that \$1.2 million could be used for that.

Purcell said we are not actually committing this tonight because unless they do what they're doing, he would much rather use this money for the transit than for the museum, but would support this tonight knowing full well we would not spend it for a while until they make a decision at the state level to build it. Mayor Powell said the impact of the decision tonight could mean whether this project is done or not as far as consideration by the Legislature.

Baxter asked if Lt. Col. Ewing could comment on the Museum. Lt. Col. Ewing said he was not at liberty because the decision was up to Council; he sits with the Museum Board and there are a great number of things in that museum that have a great deal of interest as far as the heritage and culture of this part of the state and it is not strictly military, it is cross cultural. He said he would be glad to see if more information could be provided to the City Council and without a doubt, the benefit would be worth the effort.

VOTE ON MOTION: AYE: Haywood, Hanna, Devine, Purcell, Shanklin. NAY: Moeller, Baxter, Smith. MOTION CARRIED.

2. Consider approving a resolution requesting the Oklahoma Department of Transportation to approve additional access to Lots 3 and 4, Block 1, Sullivan's T.V. Acres and to consider altering the limited access designation on that portion of State Highway 7 within the corporate city limits. Exhibits: Resolution 00-57.

MOVED by Haywood, SECOND by Smith, for approval of Resolution 00-57. AYE: Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

(Title only) Resolution 00-57

A resolution requesting the Oklahoma Department of Transportation to approve additional access for Lots 3 and 4, Block 1, Sullivan's T.V. Acres and to consider removing the current limited access designation on that portion of State Highway 7 within the City limits.

3. Discuss policy guidance for Code Enforcement, provide appropriate guidance to staff. Exhibits: Memorandums from the City Manager dated April 12, May 5 and 31, 2000.

Baker said during the May 30 Council meeting he was directed to bring this policy back to Council for reconsideration. In April 1999 and May 1999 he sent correspondence to Council outlining what he thought the philosophy was; Council agreed at that time and now wants to consider it further.

Shanklin asked if there was a desire to change the policy from passive to an aggressive policy to clean up the City and that we are not currently cleaning up the city. Baker said the philosophy we have been operating under that was previously approved by Council is basically a reactive approach as opposed to proactive and it is based upon complaints as opposed to us aggressively going out in the community and looking for these things. He said one reason we operate in this manner is that we do not have the resources to be too aggressive, and our people are kept fully occupied just responding to complaints. Baker said he recently visited with the City of Norman and they have the same type of philosophy, and with an aggressive approach, some in the community felt they were being harassed and complaints were lodged as a result. He said we need to clean up the city and the philosophy now being used is a middle of the road approach within our resources. Baker said the approach should provide for adequate code enforcement and protect the health and welfare of the citizens but in a manner that will not unnecessarily alienate, aggravate and anger them; we must be reasonable and exercise good common sense. He said this is what we have been doing and if Council wants to change that philosophy, staff will do as directed.

Shanklin said his only problem with those statements is that people have to live beside this or across the alley, and we do not seem to be worrying about them or about alienating them by being passive. He said this came about because if a person answered the door when an inspector came by, they were given a citation, but if you were not there, a slip of paper was left giving you ten days to abate it, and that was not what Council desired to happen. Shanklin said the information shows that for cars parking on grass, junk vehicles, signs, or low limbs, just wait for someone to complain, and the alleys are in bad shape, and hopefully we will be able to provide relief for the elderly who cannot take care of the alleyways, but violations become contagious. He said he thought there was a chance to clean up and it should be done.

Mayor Powell said if someone calls in a complaint, it will be taken care of and the procedure will start. Baker said we have had a backlog and part of the problem is that it is taking too long to get to these things, and the problem persists and we are not responsive in a timely manner. He said we have been doing some things to try to address that and Council approved using pre-release inmates to do alleys so we hope that will bring progress, and additional people have been hired

to reduce the backlog in Code Administration. Shanklin asked if those people would go to the Courthouse to look this stuff up and Baker said yes, one clerk will be doing that and the other clerk will be preparing admin orders. Baker said Mr. Tucker had told him that the 21 day backlog that we had is now down to two or three days so we are improving and have more resources to address it, but there are problems and a lot of complaints. He said the Neighborhood Activity Center should provide increased emphasis on this task.

Haywood said Council told the City Manager last year to be reactive and not proactive in enforcement. He said the inspectors do a fine job.

Purcell agreed with Haywood' comments. He said Council received complaints when inspectors were trying to be too proactive.

MOVED by Purcell, SECOND by Devine, to direct the Manager to continue the reactive approach to this enforcement.

Shanklin said he hated for that to be done and asked if Purcell wanted to leave the junk vehicles and signs and parking on the grass and ignore it. Purcell said staff will do the enforcement if a complaint is called in, but he did not expect them to patrol all the alleys. Shanklin said it is not in the alleys. Purcell said a citizen can tell us there is a junk vehicle and the inspectors should go immediately and get it resolved, but they do not need to drive up and down the street to look for it because we do not have enough people. Shanklin said his other objection was when an inspector goes out and the person asks who called in, they immediately tell them so it would be all right with him if they told everyone they visited that he (Shanklin) had complained. Baker said if that is happening, it should not be. Shanklin said it does happen and asked what the reprimand would be and said he could set it up and run a sting operation.

VOTE ON MOTION: AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

Moeller said mass transit had come up before and that she and Baker had visited Norman to look at their system, which operates on a balanced budget. She said if this is the appropriate time, she would like to see the Council direct the City Manager to take the information and study back to the Planning Department and see what they can come up with that we can make workable. Mayor Powell said he thought the City Manager had heard that message. Shanklin asked if a motion had been made for this to go on the November agenda. Purcell said it was just discussed and that he had made a comment that he thought it needed to go there, but did not want to make it a motion, and maybe we should fund it. Mayor Powell said we need to talk about it and the City Manager can do what Moeller said and bring it back at the appropriate time and discuss it, because the Planning Department is also on the way to Muskogee to look at something so we are working on it.

CONSENT AGENDA:

ITEM 15 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

16. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for claims which are over \$400.00: J.W. and Kathy McPherson; Jason R. Mattingly; Leonard S. and Jacqueline Y. McNeil; Danny J. Tate; Troy Campaign; Lucille Gill; and Jerry D. and Rebecca L. Jolly. Exhibits: Legal Opinions/Recommendations. (Resolutions 00-58, 00-59, and 00-60 on file in City Clerk's Office) Action: Approval of claims. McPherson - \$80.00; Mattingly - \$240.07; McNeil - \$110.74; Gill - \$125.00 (Title only) Resolution 00-58

A resolution authorizing and directing the City Attorney to assist Danny J. Tate in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Five Hundred Fifty-Eight and no/100 Dollars (\$558.00).

(Title only) Resolution 00-59

A resolution authorizing and directing the City Attorney to assist Troy Edward Campain in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Two Hundred Forty Three Dollars and 26/100s (\$1,243.26).

(Title only) Resolution 00-60

A resolution authorizing and directing the City Attorney to assist Jerry D. and Rebecca L. Jolly in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Nine Hundred Thirty Nine Dollars and 58/100s (\$1,939.58).

17. Consider approval of settlement and adopting a resolution ratifying the action of the City Attorney in filing and making payment of the judgment in the Workers' Compensation case of Cathy A. Williams in the Workers' Compensation Court, Case No. 97-14073 J. Exhibits: Res 00-61.

(Title only) Resolution 00-61

A resolution ratifying the actions of the City Attorney in making payment of the judgment in the Workers' Compensation case of Cathy A. Williams for the amount of Twenty Seven Thousand Dollars and no cents (\$27,000.00), per order of the Workers' Compensation Court, and filing a foreign judgment in the District Court of Comanche County for purposes of placing said judgment on the tax rolls.

18. Consider adopting a resolution declaring that Ninety Percent (90%) of the budgeted and appropriated revenues for fiscal year 1999-00 have been collected for the General Fund. Exhibits: Revenue Report May 31, 2000; Resolution 00-62.

(Title only) Resolution 00-62

A resolution declaring that Ninety Percent (90%) of budgeted and appropriated revenues have been collected for the General Fund.

19. Consider authorizing the transfer of Council Contingency funds to the City Attorney's Professional Services account. Exhibits: Memorandum from City Attorney; Report on Status of Council Contingency. Action: Authorize the transfer of \$20,000 from Council Contingency to the Legal Service's Professional Services Account.

20. Consider a resolution authorizing the installation of traffic control devices at the specified locations. Exhibits: Resolution No. 00-63; Excerpts from draft minutes of the Traffic Commission meeting of May 18, 2000.

(Title only) Resolution 00-63

A resolution authorizing the installation and/or removal of traffic control devices at certain designated locations within the City of Lawton, Oklahoma. Locations: 1) Install larger yield where southbound traffic merges with Fort Sill Boulevard, just south of Cache Road; 2) Install 45 MPH speed limit signs along NW 82nd Street from Rogers Lane to Quannah Parker Trailway; 3) Install signs and change signal timing to provide a protected left turn for northbound traffic at the intersection of Fort Sill Boulevard and Smith.

21. Consider requests for the installation of traffic control devices at the specified locations. Exhibits: Excerpts from the draft minutes of the Traffic Commission meeting of May 18, 2000. Action: Denial of requests for no parking on one side of SW 12th Street from Park to Summit and to install flashing lights at the existing crosswalk on Summit serving Goodwill.

22. Consider entering into a letter of agreement with Great Plains Technology Center (GPTC) for the specific purpose of conducting fire service training. Exhibits: Contract. Action: Authorize the Mayor and City Clerk to execute a letter of agreement with Great Plains Technology Center for the specific purpose of conducting fire service training and sharing in the use and maintenance of facilities.

23. Consider approval of contract between City and Comanche County for emergency management services (Civil Defense). Exhibits: Contract. Action: Approval of contract (\$30,000).

24. Consider a contract between the City and the Comanche County Board of Health for certain health matters. Exhibits: Contract. Action: Approval of contract (\$108,000).

25. Consider approving a modification of the renewal agreement executed and effective January 1, 2000 through June 30, 2000 between the State of Oklahoma Office of Juvenile Affairs and the City of Lawton for the continued operation and management of a Community Intervention Center in Lawton, and authorize execution of the modification. Exhibits: Modification of Renewal of Contract No. T063966. Action: Approval of item.

26. Consider authorizing staff to negotiate with the necessary property owners for permanent easements for the two existing and one proposed lagoons that serve Lakeland Addition. Exhibits: Sketch showing the easements and the Lagoons. Action: Authorize staff to negotiate with the necessary property owners for permanent easements for the two existing and one proposed lagoons that serve Lakeland Addition, School House Slough and the East Campground.

27. Consider authorizing the Mayor to sign an application for permanent and temporary easements located in Section 13, T1N, R12W, from the School Land Commission. Exhibits: None. Action: Approval of item.

28. Consider approving the plans and specifications for the construction of a sewer line to serve Guarantee State Bank at NW 67th Street and Quannah Parker Trailway. Exhibits: Location Map; Memorandum from Associate Civil Engineer. Action: Approve the plans and specifications for the construction of a sewer line to serve Guarantee State Bank at NW 67th and Quannah Parker Trailway subject to permitting by ODEQ.

29. Consider accepting City Hall Annex Cooling Tower Replacement Project #2000-10 as constructed by United Mechanical, Inc. and placing the Maintenance Bond into effect. Exhibits: Map. Action: Approval of item.

30. Consider approving a resolution supporting the transfer of land from the Fort Sill Military Reservation for the Fort Sill National Cemetery and approving and establishing at Kiowa, Comanche and Apache Cemetery on part of the property transferred. Exhibits: Res 00-64.

(Title only) Resolution 00-64

A resolution supporting the transfer of land from the Fort Sill Military Reservation for the Fort Sill National Cemetery; and approving and establishing a Kiowa, Comanche, and Apache Cemetery on part of the property transferred.

31. Consider ratifying the action of the Lawton Water Authority and approving a resolution amending the Schedule of Fees and Charges with regards to the charges for "yard trash" and "brushwood" as defined in Section 22-401 of the Lawton City Code. Exhibits: Resolution 00-65.

(Title only) Resolution 00-65

A resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, reducing the rate for landfill fees and establishing and setting minimum fees for "yard trash" and "brushwood" refuse and providing an effective date.

32. Consider ratifying the action of the Lawton Water Authority approving Amendment No. 8 to the Raw Water Purchase Agreement with Ramon John, and authorize the Mayor and City Clerk to execute the Amendment. Exhibits: None. Action: Ratify and approve item.

33. Ratify the actions of the Lawton Water Authority, approving Amendment No. 2 to the School House Slough Lake Concession and a Memorandum of Understanding for increasing sewer connections at School House Slough and authorize the Mayor and City Clerk to execute the documents. Exhibits: Amendment No. 2 to School House Slough Lake Concession Memorandum of Understanding. Action: Ratify and approve item.

34. Consider approving Agreement for Legal Services between the City of Lawton and Burgess and Burgess, Inc. and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Retainer Agreement for Legal Services (on file in City Clerk's Office). Action: Approval of item.

35. Consider approving contract change order for Custodial Maintenance Service to add custodial services. Exhibits: Contract Change Order. Action: Approve change order to add services for Public Works/Engineering departments.

ITEM 36 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

37. Consider awarding contract for Certified Workplace Medical Plan. Exhibits: Department recommendation and Abstract of Bids. Action: Award contract to Genex Service, Inc.

38. Consider awarding contract for sewer rods. Exhibits: Department recommendation and Abstract of Bids. Action: Award contract to Sewer Equipment Company.

39. Consider awarding contract for an Engineering Copier. Exhibits: Department recommendation and Abstract of Bids. Action: Award contract to Digital Engineering.

40. Consider awarding contract for mowing and litter control. Exhibits: Department recommendation and Abstract of Bids. Action: Award contracts to Service One Janitorial for Lawton View, Woodhouse, Florida, Plainview, D-6 Urban Renewal, and Area D; Beaver Creek Tractor for Area B; Inland Service Corp. for Area A, Elmer Thomas Park, Cache Road Bi-Level and Area C; Wayne Harris for Area E.

41. Consider awarding contract for Fire Department Polo Shirts. Exhibits: Department recommendation and Abstract of Bids. Action: Award contract to T & S Printing.

42. Consider rejecting bids for Polyethylene Pipe. Exhibits: Bid Record Tabulation and Department Recommendation. Action: Reject bids.

43. Consider approval of appointments to boards, commissions and trusts. Exhibits: Memo. Airport Authority: Stanley Haywood, Council Representative; Commission on the Status of Women: Beverly Wooley, Ward 6, Term: 6/13/00 to 6/13/02; Lawton Economic Development Authority: Barbara Moeller, Council Representative; Museum of the Great Plains Trust Authority: Barbara Moeller, Council Representative; Committee on Emergency Management: Michael Baxter; Engineer Selection Committee: James Hanna; Parks & Recreation Commission: Gary Watkins, Mayor's Rep., Term: 6/13/00 to 6/13/02

44. Consider approval of payroll for the period of May 29 through June 11, 2000. Exhibits: None.

Separate consideration was requested for Items 15 and 36.

MOVED by Purcell, SECOND by Moeller, for approval of the Consent Agenda items as recommended with the exception of Items 15 and 36. AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

15. Consider the following damage claims recommended for denial: David W. and Beverly Clark; Rick Gilliland; Jerry and Mary Bailey; Steven M. Burke, Sr.; Lou Delk; and Gregoria Lusher. Exhibits: Legal Opinions/Recommendations. Action: Denial of claims.

Smith said he has a conflict on the David W. and Beverly Clark item and that he would abstain from involvement.

Mayor Powell said Mary Bailey is present to speak on her claim.

Mary Bailey, 4211 SE Camden Way, said her sewer line was replaced in February; back in 1997 the City worked in the alley just east of her house, which the City measured at approximately 48 feet. She said the City repaired the main there, and after they had been working a couple of days she heard them beating on something trying to make it fit and the noise came through the line up into her house real loud. Bailey said she told her husband that afternoon that they were going to have sewer problems because they had beat the main and it had to have been the sewer line. She said she had repairs made to her sewer and had it snaked out and different things but in February she decided to have it replaced; every

plumber that came to her house told her that her line was clear all the way to the sewer. Bailey said the plumber told her the problem was out at the sewer, and when the plumber dug down to the sewer, he had her call the City to come out where he could break into it and reconnect her sewer to the main. She said about an hour and a half after that he asked her to call the City Engineer, and a man came out and looked at it and it had hairline cracks and that she went down in the hole and looked at it. Bailey said the plumber was afraid to break into it because he was afraid it would all shatter. She said the City put white PVC down and built it to where it would hold her line to be connected. Bailey said she felt the damage was done when the City put in that piece just to the east of her property and that it knocked her sewer connection loose, because when he dug down, the sewer was like it was moved over. She said the three houses next to hers on her side of the street also had to have their sewers replaced, as well as the lady behind her and she has a trap by the sewer and you can put a stalk of pipe down it and be unstopped for another week until something comes along and it is clogged back up. Bailey said she felt her line was damaged, moved over, from all the pounding and beating that was done on the main.

Vincent said the plumber did not call when he first stated having problems, and the plumber's statement to the City was that he could never clear the service line and that was why he started digging. He said the tap was on the bell of the sewer main, rather than where it was supposed to be according to our City crew chief, and the sewer main was not replaced because of the spider cracks but because the tap was on the bell. Vincent said he could find nothing the City did wrong but this is one of those gray areas because a line was replaced in 1996 or 1997, there was banging and pounding on it for whatever reason he did not know. He said they were not exactly sure what was wrong with her service line. Baxter said the information shows the field supervisor said we did replace a three foot, eight inch portion of the main. Vincent said yes, because the tap on the old main was made at the bell so we replaced a section so they could make a better connection, not because it was spider cracked.

Shanklin asked that Devine explain. Devine said if they are tapped on a bell or when they used a combination to tap one, the fitting is so large that the tapping saddle will not fit over the City main, and in his dealings with the City's field supervisors, any time they dig up a sewer line to replace it and the City main has spider webs, we automatically call Field Utilities to come out and repair that portion of the main to assure the customer will have a good, firm connection and that no roots will grow into that section of the sewer main. He said as far as being shifted off the main during the time of beating on it, if it was undisturbed dirt, he would be reluctant to state it would cause the service line to shift off of the main, but if loose, it could have happened. Devine said if the line is cracked or the old tap is on a bell, they automatically call the City and they come out and replace the section of the main so they can get the customer a good connection and there will not be future problems with it.

Purcell said this is certainly a gray area, and the Council had approved some that were not even this gray.

MOVED by Purcell, SECOND by Baxter, to approve the claim in the amount of \$1,425. AYE: Purcell, Moeller, Haywood, Baxter, Smith. NAY: Devine, Shanklin. OUT: Hanna. MOTION CARRIED.

(Title only) Resolution 00-

A resolution authorizing and directing the City Attorney to assist Jerry W. and Mary E. Bailey in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Four Hundred Twenty-Five and no/100 Dollars (\$1,425.00).

Baxter said on the claim of Steven M. Burke, Sr., he read the report and was concerned that he would be asking the City to pay the claim of \$84.82 if he were in this man's position. He said there were probably some improper things done out in the field when this happened.

MOVED by Baxter, SECOND by Shanklin, to pay this man (Burke) his \$84.82.

Purcell asked the reason for the motion. Baxter said they impounded his vehicle for no reason, and the last time he got stopped for speeding and no insurance verification, it was not a reason for a police officer to take his vehicle away from him and he hoped it never got to that point. Smith said he smelled alcohol on his breath after clocking him for speeding, the man verified that he had been drinking, and when the officer got him out of the vehicle to do a field sobriety test, he failed some portion of that sobriety test and was taken down to do a breathalyser, which he passed. Baxter said therefore he is not DUI, and you have no reason to impound his vehicle. Smith said he thought the officer acted in good faith in his opinion.

VOTE ON MOTION: AYE: Devine, Shanklin, Baxter, Hanna. NAY: Purcell, Moeller, Haywood, Smith. TIE VOTE, MAYOR VOTED YES, MOTION CARRIED.

Smith said Mr. Clark is present to speak and that due to a conflict, he would abstain from participation.

David Clark, 4906 W Gore, said he owns the property at 210 Columbia. He said he got a code compliance notice from Steve Herndon, had talked to him in 1998, and the complaint was, he had taken the roof off because it had a flat roof on there and he felt it was a place for varmints to live as it had started leaking, and he wanted it opened up where it would be aired out. Clark said it was a concrete block building with concrete floors but he was informed it was a fire hazard by the definition of the code compliance, so he talked to Mr. Herndon about it and it is not really a fire hazard because it is all concrete, and it is nothing more than a driveway with a concrete block fence around it. Clark said Herndon told him it was too late to get it taken off the City Council agenda at that point but he would go in and talk to them and tell them what they had come up with. Clark said he asked Herndon if he should attend the Council meeting and that Herndon told him no, it

was all taken care of, and that was the last he heard of it until his tenant called him the next year and said guys were there with backhoes knocking the walls down. Clark said he asked them who gave them permission to start tearing down his building and they said the City had issued a demolition order on the building. Clark said he had not been informed of the demolition order on the building or resolution until that day when he went down and by that time, Steve Herndon had left the City and Dennis Woommavovah said the City wanted them to clean up the buildings, he saw it in the file and issued a demolition order on it.

Clark said he had personal property at this building, had invested in some parakeet cages with automatic waterers and feeders, and a commercial water cooler for a parakeet operation; he spent \$3,000 for about \$6,000 or \$7,000 worth of equipment if it would have been bought new. Clark said he knew a guy who was raising parakeets that was going out of business so he bought his equipment. He said he had the equipment stored behind the building and had cleared out the floors of the building because he had intended to put a steel roof on the building. Clark said he had the utilities disconnected from it because he needed no utilities because it was strictly to be used for storage, and that he went over all of this information with Steve Herndon and had an agreement that it was not a fire hazard and really posed no threat to the neighborhood. He said now that the City has removed the building, they have created a maintenance problem for him because in April of this year he got a grass and weeds notice from them to go mow the property, and he did not disagree with that and it needed to be mowed because the grass and weeds had gotten out of hand. Clark said he had no way now to derive any income or use for that back half of the property because he put up a wood fence between the tenants that live on the front half and that building that was in the back half; now it is a vacant property that he will continually have to maintain because they even tore out the concrete slab, and he would have thought if they were going to demolish a building that they would have knocked down the walls without tearing out the concrete slab that was even with the ground and a perfectly good slap. He said the concrete block walls were reinforced and not cracking and breaking apart; it was a very good concrete block building.

Hedy Jackson, Assistant City Attorney, said she checked the Council minutes that it was brought before Council, who had been informed at the time that Mr. Clark had secured a building permit the day before and Council went ahead and voted for the resolution. Jackson said Clark had the building permit for six months but never did anything during that six months, and as a matter of fact, he still had not done anything when it was torn down a year later.

Purcell asked if Clark was issued a building permit on August 25, 1998, and he had six months to rebuild the building. Jackson said that was correct. Purcell asked if on August 6, 1999, he had done nothing and that was when Council approved the resolution. Jackson said no, Clark was issued a building permit in August 1998 and the next day, Council approved the resolution to demolish it; the resolutions were different at that time and they said if the person did not have it done in compliance, then they could go ahead and demolish it. Purcell asked if the resolution was basically done on August 25, 1998 and Jackson said yes. Purcell said the owner did not do anything, so on August 6, 1999, the building was demolished. Jackson said that was correct. Purcell said he would imagine someone would have a notice in a file that he had six months for the building permit and if not then it would be demolished. Shanklin said it would be in the resolution. Purcell said he wanted to make sure it was in a file that Clark was notified. Tucker said when the building permit was issued, the building permit was made to expire six months after it was issued; the day following the issuance of the permit when it was brought to Council, the resolution read that we would give the individual two weeks to obtain a permit and then have the duration of that permit to complete it or it would be demolished. Tucker said that giving him the two weeks was moot because he already had the permit, but it was very clear in the resolution that it had to be done prior to that end of the six months. Purcell said he understood that and asked if Clark was notified of that. Tucker said yes. Purcell said he was either sent a copy of the resolution or was present that night. Tucker said he did not recall if Mr. Clark was present but that he was notified of the public hearing.

Jackson said she wanted to clarify for Purcell that Clark was aware it was on the agenda; Clark came in and obtained the building permit the day before the Council meeting and although it is a matter of public record and he could have found out, she did not know that he received an additional mailed personal notice. Mayor Powell said he thought Purcell was talking about at the end of the six months. Purcell said no, he was talking about did Clark know that if he did not get the building repaired in six months that the City would demolish it; he knew about the meeting and the resolution was passed and he got an answer.

Baxter asked why Clark did not show up for the Council meeting on August 25, 1998. Clark said his conversation with Mr. Herndon; the letter he got gave the number and time to call to get an inspection of this property and said failure to comply may result in condemnation or demolition by the City. Clark said he made an appointment with Mr. Herndon at 4:30 the day before the Council meeting, and that he was not aware of the Council meetings, had never watched it on TV or been to one before, and this was his first time to ever be in a Council meeting to know anything about it except who his councilman was. Clark said he talked to Herndon about the property and thought it was a done deal. Clark said that Herndon told him that he (Herndon) would go to the Council meeting and tell them it was not a fire hazard because it was a concrete block building, what the plans were with it, and that it would not be a problem, but in the mean time Steve Herndon left and Dennis Woommavovah got it and he said he did not know the status and that the City wanted him to clean up the properties and he found the file and issued the demolition order but had no idea any of this was going on.

Purcell asked Clark if when he got the building permit in August 1998 if he knew he had six months to bring it up to code. Clark said he knew he had six months on that building permit or he needed to come in and get another one if he did not complete the work. Purcell asked Clark if he came in and got another one. Clark said no, because he was not still yet in a position to finish the work on the building. Clark said the personal property of his that was removed from the building was not any part of any of this.

Devine said he planned to make a motion that the claim be denied. He said Clark has other avenues that he can take this to court and try to get his money back other than the Council's decision. Clark said he was aware of that but hated to spend money on legal fees and would hate for the City to incur that as well. Clark said during this same time, April 1998, he got a notice from the County Assessor's Office raising the property value \$2,000; they were telling him the building was worth \$9,000 for replacement cost and the depreciated value was \$4,700 on just that block structure. Clark said he got a notice from the City before that telling him it was condemned, dilapidated property, yet the property taxes were going up.

MOVED by Devine, SECOND by Purcell, to deny the Clark claim. AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Hanna, Devine. NAY: None. OUT: Smith. MOTION CARRIED.

MOVED by Purcell, SECOND by Baxter, to deny the claims of Gilliland, Delk and Lusher. AYE: Shanklin, Moeller, Haywood, Baxter, Hanna, Devine, Purcell. NAY: None. OUT: Smith. MOTION CARRIED.

36. Consider approving the following contract extension: A: Tree Transplanting Services with Gleason Instant Tree Farm; B. Electro Fusion Polyethylene Fittings for DR 17 Pipe with TT Technologies, Inc., Cooper Wholesale, Inc., SECOR. Exhibits: None.

Shanklin asked about the tree transplanting services with Gleason Instant Tree Farm, and asked if it was still one for two or three for one or just get any tree you want to get and take it some place and sell it. Gary Salva, Parks & Recreation Director, said Shanklin was obviously referring to an incident that happened before he came on board. Salva said he met with Mr. Gleason, who was curious as to why we had not used his services in the past year and that Salva told him their focus right now was not tree transplanting. Salva said if we use this service, we will use trees on Mr. Gleason's land or trees that he can acquire that we would purchase and have him use his mechanical spade to plant them in our parks, but we have not used his service at all during the past year.

Shanklin asked if Mr. Gleason has the authority to take a tree off of City property. Salva said no, he had heard stories of that, and that will not occur.

MOVED by Shanklin, SECOND by Devine, for approval of Item 36 as recommended. AYE: Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Haywood invited everyone to the Juneteenth Celebration.

Devine said he was not fighting the Kids Zone earlier tonight, that he was 100% for it and wanted to see it proceed forward. He said ground work has already started and he was anxious to get involved with it and help, and he just wanted to bring it out and make sure that he and Baker's conversation was made openly because we will see if things can be changed to help people. Mayor Powell said that statement has been being made for the last four years. Devine said we are not doing it and that was what he wanted to bring to the public that we are and we can bend the rules a little bit to try to make situations work.

Smith said we will see a lot of positive changes coming in code revisions from the Mayor's Task Force on Codes. He said he felt there would be a lot of positive things very quickly come forward for Council's consideration. Mayor Powell said he appreciated that.

BUSINESS ITEMS:

45. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2000-2001 between the Fire Union, IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

46. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled Ha Vu v. City of Lawton, Case No. SC-2000-1479, in the District Court of Comanche County, State of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

47. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss possible settlement of the City's claim associated with the case styled Delisa Nevaquaya vs. American Home Products, Case Numbers CJ-98-665 and CJ-98-666, District Court of Oklahoma County, and if necessary, take appropriate action in open session.

48. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the continued employment of John H. Vincent as the City Attorney, and in open session, consider approving an employment agreement of John H. Vincent as City Attorney and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Employment Agreement Summary - Previously Distributed.

49. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the continued employment of Brenda M. Smith as City Clerk, and in open session, consider approving an employment

agreement of Brenda M. Smith as City Clerk and authorize the Mayor and Deputy City Clerk to execute the Agreement. Exhibits: Employment Agreement Summary - Previously Distributed.

MOVED by Smith, SECOND by Devine, to convene in executive session to consider the items so listed on the agenda and recommended by the legal staff. AYE: Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 9:30 p.m. and reconvened in regular, open session at approximately 10:15 p.m. with roll call reflecting all members present.

Vincent reported on Item 45, pursuant to Section 307B.2, Title 25, Oklahoma Statutes, the Council convened in executive session to consider the negotiations for a Collective Bargaining Agreement for FY 2000-2001 between the Fire Union, IAFF, Local 1882, and the City of Lawton. No action is required at this time.

Vincent reported Item 46 is an action involving a small claims case, Ha Vu vs City of Lawton in Comanche County District Court, Case SC2000-1479, and this is pursuant to 307B4 of Title 25. He recommended a motion to allow us to pay Ms. Ha Vu the claimed amount of \$1,337.02 and attorney fees of \$133.71, and court costs which will not exceed \$100.

MOVED by Smith, SECOND by Baxter, to pay Ms. Ha Vu the claimed amount of \$1,337.02 and attorney fees of \$133.71, and court costs which will not exceed \$100. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

(Title only) Resolution 00-67

A resolution rescinding Resolution 00-19 and authorizing the City Attorney to enter into a settlement agreement for the sum of One Thousand Six Hundred Fifteen and 22/100 Dollars (\$1,615.22) as settlement of a small claims suit filed by Ha Vu, by and through her attorney John P. Zelbst, and directing the City Attorney to prepare and file a journal entry incorporating said resolution and settlement agreement for the Court's approval.

Vincent reported on Item 47, pursuant to Section 307B4, Title 25, Oklahoma Statutes, Council entered into executive session to discuss the litigation, Delisa Nevaquaya vs. American Home Products, Case Numbers CJ-98-665 and CJ-98-666. He said because of a conflict he had to excuse himself and would defer to the Mayor to report what action was necessary, if any.

MOVED by Purcell, SECOND by Smith, to execute a confidential agreement by the City Attorney. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

Vincent reported regarding Item 48 that pursuant to Section 307B.1, Title 25, Oklahoma Statutes, the Council entered into executive session to discuss the continued employment of John H. Vincent as the City Attorney. Mayor Powell said the City Attorney's employment was discussed in executive session and a pay increase was discussed.

MOVED by Smith, SECOND by Haywood, to renew Mr. Vincent's contract with an 8% increase and authorize the Mayor and City Clerk to execute the contract.

Purcell said he wanted to make sure to get in the record that the percentage increase was the same as the general employees would get from the step increase, cost of living and the 2.5% given last March.

VOTE ON MOTION: AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

Vincent reported regarding Item 49 that pursuant to Section 307B.1, Title 25, Oklahoma Statutes, we went into executive session to discuss the continued employment of Brenda M. Smith as City Clerk. Mayor Powell said this was discussed, as well as a pay raise.

MOVED by Smith, SECOND by Purcell, to give Brenda Smith, renew her contract and give her the 8% increase that the other employees also got, and authorize the Mayor and Deputy City Clerk to execute said contract. AYE: Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 10:20 p.m. upon motion, second and roll call vote.